Case 3:23-cv-03417-VC Document 307-3 Filed 12/04/24 Page 1 of 24

EXHIBIT 3

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and the Proposed Class

9 Counsel for Individual and Representative Plaintiffs

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA SAN FRANCISCO DIVISION

Richard Kadrey, et al.,

Individual and Representative Plaintiffs,

| v.

Meta Platforms, Inc.,

Defendant.

Lead Case No. 3:23-cv-03417-VC Case No. 4:23-cv-06663

PLAINTIFF CHRISTOPHER GOLDEN'S RESPONSES TO DEFENDANT META PLATFORMS, INC.'S THIRD SET OF REQUESTS FOR ADMISSION

No. 08-CV-1661-LAB-NLS, 2011 WL 719206, at *6 (S.D. Cal. Feb. 22, 2011) (citing Google Inc. v.

6, 2006)). To discover new information, parties must use other methods, like depositions, document

requests, or interrogatories. See, e.g., Republic of Turkey v. Christie's, Inc., 326 F.R.D. 394, 399

(S.D.N.Y. 2018) (explaining that "[w]hile the basic purpose of discovery is to elicit facts and

information and to obtain production of documents, Rule 36 was not designed for this purpose."

(quoting 7 Moore's Federal Practice § 36.02[1])); Spectrum Dynamics Med. Ltd. V. Gen. Elec. Co., 18-

CV-11386-VSB-KHP, 2021 WL 735241, at *2 (S.D.N.Y. Feb. 25, 2021) (explaining that RFAs "are not

designed to discover information like other discovery rules such as Rule 34" and excusing a party from

responding where RFAs were "tantamount to contention interrogatories"). Plaintiff further objects to

1 2 American Blind & Wallpaper Factory, Inc., No. C. 03-5340 JF (RS), 2006 WL 2578277 (N.D. Cal. Sept. 3 4 5 6 7 8 9 10

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Subject to and without waiver of the foregoing objections, Subject to and without waiver of the foregoing objections, no response is required; and to the extent one is required, Plaintiff lacks sufficient knowledge to either admit or deny this Request.

REQUEST FOR ADMISSION NO. 71:

this Request as calling for legal analysis and a legal conclusion.

Admit that YOU have not granted the publishers of YOUR ASSERTED WORK(S) the right to license the ASSERTED WORK(S) as training data for LLMs.

RESPONSE TO REQUEST NO. 71:

Plaintiff objects to this Request as unreasonably cumulative of Requests for Admission Numbers 9, 10, and 11. See e.g., Thorpe v. Hearn, No. 219CV1974KJMKJNP, 2022 WL 902891, at *5 (E.D. Cal. Mar. 28, 2022) ("Where requests for admission ... are unreasonably cumulative and duplicative of other discovery taken in the case, the requests do not serve the purpose of Rule 36(a) and are properly subject to objection.") (internal citations omitted); see also K.C.R. v. Cnty. of Los Angeles, No. CV 13-3806 PSG SSX, 2014 WL 3433925, at *4 (C.D. Cal. July 14, 2014).

Subject to and without waiver of the foregoing objections, Plaintiff admits he has not granted the publisher of his ASSERTED WORKS the right to license the ASSERTED WORKS as training data for LLMs. Plaintiff further responds that Plaintiff has entered into licensing agreements with Plaintiff's

which speak for themselves.

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REQUEST FOR ADMISSION NO. 72:

4 5 Admit that the publishers of YOUR ASSERTED WORK(S) do not possess the right to license the ASSERTED WORK(S) as training data for LLMs.

Plaintiff objects to this Request as unreasonably cumulative of Requests for Admissions

duplicative of other discovery taken in the case, the requests do not serve the purpose of Rule 36(a) and

Subject to and without waiver of the foregoing objections, Plaintiff admits that the publisher of

Admit that the publishers of YOUR ASSERTED WORK(S) would need YOUR permission to

Plaintiff objects to this Request as vague and ambiguous as to the phrase, "YOUR permission."

Plaintiff further objects to this Request because it is an incomplete hypothetical untethered to the facts

of the case. See, e.g., Buchanan v. Chi. Transit Auth., No. 16-cv-4577, 2016 WL 7116591, at *5 (N.D. Ill.

permit "hypothetical" questions within requests for admission."); Fulhorst v. Un. Techs. Auto., Inc.,

Dec. 7, 2016) ("Since requests to admit 'must be connected to the facts of the case, courts do not

No. Civ. A. 96-577-JJF, 1997 WL 873548, at *3 (D. Del. Nov. 17, 1997) (denying request "asking

are properly subject to objection.") (internal citations omitted); see also K.C.R. v. Cnty. of Los Angeles,

his ASSERTED WORKS does not possess the right to license the ASSERTED WORKS as training

data for LLMs. Plaintiff further responds that he has entered into licensing agreements with Plaintiff's

publisher for the ASSERTED WORKS and directs Meta to the terms of such licensing agreements,

No. CV 13-3806 PSG SSX, 2014 WL 3433925, at *4 (C.D. Cal. July 14, 2014).

publisher for the ASSERTED WORK and directs Meta to the terms of such licensing agreements,

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RESPONSE TO REQUEST NO. 72:

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Numbers 9, 10, 11, and 69. *See e.g.*, *Thorpe v. Hearn*, No. 219CV1974KJMKJNP, 2022 WL 902891, at *5 (E.D. Cal. Mar. 28, 2022) ("Where requests for admission ... are unreasonably cumulative and

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Lead Case No. 3:23-cv-03417-VC

which speak for themselves.

REQUEST FOR ADMISSION NO. 73:

RESPONSE TO REQUEST NO. 73:

license the ASSERTED WORK(S) as training data for LLMs.

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Plaintiff to admit to infringement in the context of the hypothetical use of its device"); Fed. R. Civ. P.

Dated: November 18, 2024 /s/ Joseph R. Saveri 1 By: Joseph R. Saveri 2 JOSEPH SAVERI LAW FIRM, LLP **BOIES SCHILLER FLEXNER LLP** Joseph R. Saveri (SBN 130064) David Boies (pro hac vice) 3 333 Main Street Cadio Zirpoli (SBN 179108) Armonk, NY 10504 Christopher K.L. Young (SBN 318371) 4 (914) 749-8200 Holden Benon (SBN 325847) 5 dboies@bsfllp.com Aaron Cera (SBN 351163) Margaux Poueymirou (SBN 35600) 6 Maxwell V. Pritt (SBN 253155) 601 California Street, Suite 1505 Joshua I. Schiller (SBN 330653) San Francisco, California 94108 7 Joshua M. Stein (SBN 298856) (415) 500-6800 44 Montgomery Street, 41st Floor 8 jsaveri@saverilawfirm.com San Francisco, CA 94104 czirpoli@saverilawfirm.com 9 (415) 293-6800 cyoung@saverilawfirm.com mpritt@bsfllp.com hbenon@saverilawfirm.com 10 jischiller@bsfllp.com acera@saverilawfirm.com jstein@bsfllp.com 11 mpoueymirou@saverilawfirm.com 12 Jesse Panuccio (pro hac vice) Matthew Butterick (SBN 250953) 1401 New York Ave, NW 13 1920 Hillhurst Avenue, #406 Washington, DC 20005 Los Angeles, CA 90027 (202) 237-2727 14 (323) 968-2632 ipanuccio@bsfllp.com mb@buttericklaw.com 15 David L. Simons (pro hac vice) **CAFFERTY CLOBES MERIWETHER &** 16 55 Hudson Yards, 20th Floor SPRENGEL LLP New York, NY 10001 17 Bryan L. Clobes (pro hac vice) (914) 749-8200 135 S. LaSalle Street, Suite 3210 dsimons@bsfllp.com 18 Chicago, IL 60603 (312) 782-4880 19 bclobes@caffertyclobes.com 20 [continued on next page] 21 22 23 24 25 26 27 28

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CERTIFICATE OF SERVICE

I, the undersigned, am employed by the Joseph Saveri Law Firm, LLP. My business address is 601 California Street, Suite 1505, San Francisco, California 94108. I am over the age of eighteen and not a party to this action.

On November 18, 2024, I caused the following documents to be served by email upon the parties listed on the attached Service List:

• PLAINTIFF CHRISTOPHER GOLDEN'S RESPONSES TO DEFENDANT META PLATFORMS, INC.'S THIRD SET OF REQUESTS FOR ADMISSION

I declare under penalty of perjury that the foregoing is true and correct. Executed November 18, 2024, at San Francisco, California.

By: Rya Fishman
Rya Fishman

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Counsel for Individual and Representative Plaintiffs and the Proposed Class

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA SAN FRANCISCO DIVISION

Defendant.

Richard Kadrey, et al.,

Individual and Representative Plaintiffs,

v.

Meta Platforms, Inc.,

Lead Case No. 3:23-cv-03417-VC Case No. 4:23-cv-06663

PLAINTIFF RICHARD KADREY'S RESPONSES TO DEFENDANT META PLATFORMS, INC.'S THIRD SET OF REQUESTS FOR ADMISSION

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REQUEST FOR ADMISSION NO. 75:

Admit that YOU have not granted the publishers of YOUR ASSERTED WORK(S) the right to license the ASSERTED WORK(S) as training data for LLMs.

RESPONSE TO REQUEST NO. 75:

Plaintiff objects to this Request as unreasonably cumulative of Requests for Admission Numbers 9, 10, and 11. *See e.g.*, *Thorpe v. Hearn*, No. 219CV1974KJMKJNP, 2022 WL 902891, at *5 (E.D. Cal. Mar. 28, 2022) ("Where requests for admission ... are unreasonably cumulative and duplicative of other discovery taken in the case, the requests do not serve the purpose of Rule 36(a) and are properly subject to objection.") (internal citations omitted); *see also K.C.R. v. Cnty. of Los Angeles*, No. CV 13-3806 PSG SSX, 2014 WL 3433925, at *4 (C.D. Cal. July 14, 2014).

Subject to and without waiver of the foregoing objections, Plaintiff admits he has not granted the publisher of his ASSERTED WORKS the right to license the ASSERTED WORKS as training data for LLMs. Plaintiff further responds that Plaintiff has entered into licensing agreements with Plaintiff's publisher for the ASSERTED WORKS and directs Meta to the terms of such licensing agreements, which speak for themselves.

REQUEST FOR ADMISSION NO. 76:

Admit that the publishers of YOUR ASSERTED WORK(S) do not possess the right to license the ASSERTED WORK(S) as training data for LLMs.

RESPONSE TO REQUEST NO. 76:

Plaintiff objects to this Request as unreasonably cumulative of Requests for Admissions Numbers 9, 10, 11, and 69. *See e.g.*, *Thorpe v. Hearn*, No. 219CV1974KJMKJNP, 2022 WL 902891, at *5 (E.D. Cal. Mar. 28, 2022) ("Where requests for admission ... are unreasonably cumulative and duplicative of other discovery taken in the case, the requests do not serve the purpose of Rule 36(a) and are properly subject to objection.") (internal citations omitted); *see also K.C.R. v. Cnty. of Los Angeles*, No. CV 13-3806 PSG SSX, 2014 WL 3433925, at *4 (C.D. Cal. July 14, 2014).

Subject to and without waiver of the foregoing objections, Plaintiff admits that the publisher of his ASSERTED WORKS does not possess the right to license the ASSERTED WORKS as training data for LLMs. Plaintiff further responds that he has entered into licensing agreements with Plaintiff's

publisher for the ASSERTED WORKS and directs Meta to the terms of such licensing agreements,

Admit that the publishers of YOUR ASSERTED WORK(S) would need YOUR permission

Plaintiff objects to this Request as vague and ambiguous as to the phrase, "YOUR permission."

Plaintiff further objects to this Request because it is an incomplete hypothetical untethered to the facts

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which speak for themselves.

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REQUEST FOR ADMISSION NO. 77:

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to license the ASSERTED WORK(S) as training data for LLMs.

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RESPONSE TO REQUEST NO. 77:

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Lead Case No. 3:23-cv-03417-VC

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at *5 (E.D. Cal. Mar. 28, 2022) ("Where requests for admission ... are unreasonably cumulative and

Numbers 9, 10, 11, 69, and 70. See e.g., Thorpe v. Hearn, No. 219CV1974KJMKJNP, 2022 WL 902891,

of the case. See, e.g., Buchanan v. Chi. Transit Auth., No. 16-cv-4577, 2016 WL 7116591, at *5 (N.D. Ill. Dec. 7, 2016) ("Since requests to admit 'must be connected to the facts of the case, courts do not permit "hypothetical" questions within requests for admission."); Fulhorst v. Un. Techs. Auto., Inc., No. Civ. A. 96-577-JJF, 1997 WL 873548, at *3 (D. Del. Nov. 17, 1997) (denying request "asking" Plaintiff to admit to infringement in the context of the hypothetical use of its device"); Fed. R. Civ. P. 36 advisory committee's note to 1946 amendment; Universal Dyeing & Printing, Inc. v. Zoetop Bus. Co., No. CV-223741-FLA-RAO, 2023 WL 9004983, at *21 (C.D. Cal. June 23, 2023) (denying motion to compel where the Request for Admission was a hypothetical not tied to the facts at issue and an affirmative response would not reduce the burden on a jury at trial) (citing Advantus, Corp. v. Sandpiper of Cal., Inc., No. 19-cv-1892-CAB (NLS), 2021 WL 2038318, at *2 (S.D. Cal. May 21, 2021) and Apple Inc. v. Samsung Elecs. Co., No. C 11-cv-1846 LHK (PSG), 2012 WL 952254, at *4 (N.D. Cal. Mar. 20, 2012)). Subject to and without waiver of the foregoing objections, Plaintiff admits this Request. **REQUEST FOR ADMISSION NO. 78:** Admit that YOU have not granted another PERSON the right to license YOUR ASSERTED WORK(S) as training data for LLMs. **RESPONSE TO REQUEST NO. 78:** Plaintiff objects to this Request as unreasonably cumulative of Requests for Admissions

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CERTIFICATE OF SERVICE

I, the undersigned, am employed by the Joseph Saveri Law Firm, LLP. My business address is 601 California Street, Suite 1505, San Francisco, California 94108. I am over the age of eighteen and not a party to this action.

On November 18, 2024, I caused the following documents to be served by email upon the parties listed on the attached Service List:

• PLAINTIFF RICHARD KADREY'S RESPONSES TO DEFENDANT META PLATFORMS, INC.'S THIRD SET OF REQUESTS FOR ADMISSION

I declare under penalty of perjury that the foregoing is true and correct. Executed November 18, 2024, at San Francisco, California.

By: Rya Fishman
Rya Fishman

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Lead Case No. 3:23-cv-03417-VC

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eliminate from the trial issues as to which there is no genuine dispute and, therefore, Requests for Admissions are not intended to be used as means of gathering evidence." *Bovarie v. Schwarzenegger*, No. 08-CV-1661-LAB-NLS, 2011 WL 719206, at *6 (S.D. Cal. Feb. 22, 2011) (*citing Google Inc. v. American Blind & Wallpaper Factory, Inc.*, No. C. 03-5340 JF (RS), 2006 WL 2578277 (N.D. Cal. Sept. 6, 2006)). To discover new information, parties must use other methods, like depositions, document requests, or interrogatories. *See, e.g., Republic of Turkey v. Christie's, Inc.*, 326 F.R.D. 394, 399 (S.D.N.Y. 2018) (explaining that "[w]hile the basic purpose of discovery is to elicit facts and information and to obtain production of documents, Rule 36 was not designed for this purpose." (quoting 7 Moore's Federal Practice § 36.02[1])); *Spectrum Dynamics Med. Ltd. V. Gen. Elec. Co.*, 18-CV-11386-VSB-KHP, 2021 WL 735241, at *2 (S.D.N.Y. Feb. 25, 2021) (explaining that RFAs "are not designed to discover information like other discovery rules such as Rule 34" and excusing a party from responding where RFAs were "tantamount to contention interrogatories"). Plaintiff further objects to this Request as calling for legal analysis and a legal conclusion.

Subject to and without waiver of the foregoing objections, Subject to and without waiver of the foregoing objections, no response is required; and to the extent one is required, Plaintiff lacks sufficient knowledge to either admit or deny this Request.

REQUEST FOR ADMISSION NO. 65:

Admit that YOU have not granted the publishers of YOUR ASSERTED WORK(S) the right to license the ASSERTED WORK(S) as training data for LLMs.

RESPONSE TO REQUEST NO. 65:

Plaintiff objects to this Request as unreasonably cumulative of Requests for Admission Numbers 9, 10, and 11. *See e.g.*, *Thorpe v. Hearn*, No. 219CV1974KJMKJNP, 2022 WL 902891, at *5 (E.D. Cal. Mar. 28, 2022) ("Where requests for admission ... are unreasonably cumulative and duplicative of other discovery taken in the case, the requests do not serve the purpose of Rule 36(a) and are properly subject to objection.") (internal citations omitted); *see also K.C.R. v. Cnty. of Los Angeles*, No. CV 13-3806 PSG SSX, 2014 WL 3433925, at *4 (C.D. Cal. July 14, 2014).

Subject to and without waiver of the foregoing objections, Plaintiff admits she has not granted the publisher of her ASSERTED WORK the right to license the ASSERTED WORK as training data

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for LLMs. Plaintiff further responds that Plaintiff has entered into licensing agreements with Plaintiff's publisher for the ASSERTED WORK and directs Meta to the terms of such licensing agreements, which speak for themselves.

REQUEST FOR ADMISSION NO. 66:

Admit that the publishers of YOUR ASSERTED WORK(S) do not possess the right to license the ASSERTED WORK(S) as training data for LLMs.

RESPONSE TO REQUEST NO. 66:

Plaintiff objects to this Request as unreasonably cumulative of Requests for Admissions Numbers 9, 10, 11, and 69. See e.g., Thorpe v. Hearn, No. 219CV1974KJMKJNP, 2022 WL 902891, at *5 (E.D. Cal. Mar. 28, 2022) ("Where requests for admission ... are unreasonably cumulative and duplicative of other discovery taken in the case, the requests do not serve the purpose of Rule 36(a) and are properly subject to objection.") (internal citations omitted); see also K.C.R. v. Cnty. of Los Angeles, No. CV 13-3806 PSG SSX, 2014 WL 3433925, at *4 (C.D. Cal. July 14, 2014).

Subject to and without waiver of the foregoing objections, Plaintiff admits that the publisher of her ASSERTED WORK does not possess the right to license the ASSERTED WORK as training data for LLMs. Plaintiff further responds that she has entered into licensing agreements with Plaintiff's publisher for the ASSERTED WORK and directs Meta to the terms of such licensing agreements, which speak for themselves.

REQUEST FOR ADMISSION NO. 67:

Admit that the publishers of YOUR ASSERTED WORK(S) would need YOUR permission to license the ASSERTED WORK(S) as training data for LLMs.

RESPONSE TO REQUEST NO. 67:

Plaintiff objects to this Request as vague and ambiguous as to the phrase, "YOUR permission." Plaintiff further objects to this Request because it is an incomplete hypothetical untethered to the facts of the case. See, e.g., Buchanan v. Chi. Transit Auth., No. 16-cv-4577, 2016 WL 7116591, at *5 (N.D. Ill. Dec. 7, 2016) ("Since requests to admit 'must be connected to the facts of the case, courts do not permit "hypothetical" questions within requests for admission."); Fulhorst v. Un. Techs. Auto., Inc., No. Civ. A. 96-577-JJF, 1997 WL 873548, at *3 (D. Del. Nov. 17, 1997) (denying request "asking

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CERTIFICATE OF SERVICE

I, the undersigned, am employed by the Joseph Saveri Law Firm, LLP. My business address is 601 California Street, Suite 1505, San Francisco, California 94108. I am over the age of eighteen and not a party to this action.

On November 18, 2024, I caused the following documents to be served by email upon the parties listed on the attached Service List:

• PLAINTIFF SARAH SILVERMAN'S RESPONSES TO DEFENDANT META PLATFORMS, INC.'S THIRD SET OF REQUESTS FOR ADMISSION

I declare under penalty of perjury that the foregoing is true and correct. Executed November 18, 2024, at San Francisco, California.

By: <u>Rya Fishman</u> Rya Fishman

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